

**Ducor Union Elementary**  
**School District**  
**"Stand & Deliver" "No Excuses"**

23761 Avenue 56  
PO Box 240  
Ducor, CA 93218  
Phone (559) 534-2261  
Fax (559) 534-2271

Received & Inspected

JAN 7 - 2008

FCC Mail Room

January 2, 2008

Letter of Appeal  
FCC  
Office of the Secretary  
445 12th Street SW  
Washington, DC  
20554

**CC: 02-6**

This is a letter of appeal on behalf of the Ducor Union Elementary School District. This letter is based on the decision from SLD to deny our appeal on the following:

**CC DOCKET NO. 02-6**

**Notification of Commitment Adjustment Letter**  
**Funding Year 2006: 7/01/2006 – 6/30/2007**  
**Dated July 30, 2007-09-17**

**Funding Requesting Numbers 1442277 & 1442620**  
**Ducor Union Elementary School District**  
**Form 471 Application Number – 523750**  
**Billed Entity Number – 143850**  
**FCC Registration Number – 0012049888**

I have attached supporting documentation that might assist in your review of our appeal and rule in our favor. SLD had informed Ducor Union Elementary School District that they had violated the 28 day awaiting period before signing a contract for services from a service provider.

In our original appeal letter to SLD, I did inform SLD that it appeared that the district had violated E-Rate funding procedures. SLD has determined that the district signed a contract with a service provider on February 6, 2007 which was one (1) day short of the 28 waiting period. After further review of the contract and other documentation, I would like to revise the district's original response to this appeal.

I have attached a copy of the contract agreement we accepted from Advanced Micro Systems. In addition I am submitting copies from Advanced Micro Systems documentation that clearly validates our position that Ducor Union Elementary School did not violate E-Rate Funding Rules. This information was not available when I submitted my original appeal to SLD. This documentation was submitted to me via email on this date, January 3, 2008, by Steve Dillard from AMS; By reviewing this information it clarifies and validates the timelines and dates which are all within E-Rate guidelines.

January 3, 2008

We are hopeful that the FCC will take all the information submitted for review and consider a ruling in are favor.

Sincerely,

A handwritten signature in cursive script that reads "Jesse Navarro".

Jesse Navarro

Superintendent

Email : [jnavarro@ducorschool.com](mailto:jnavarro@ducorschool.com)

**Ducor Union Elementary**  
**School District**  
**"Stand & Deliver" "No Excuses"**

23761 Avenue 56  
PO Box 249  
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September 17, 2007

Letter of Appeal  
School and Libraries Division  
Departamento 125- Correspondence Unit  
South Jefferson Road, Whippany, NJ 07981

This is a letter of appeal on behalf of the Ducor Union Elementary School District. This letter is based on the following information:

**Notification of Commitment Adjustment Letter**  
**Funding Year 2006: 7/01/2006 – 6/30/2007**  
**Dated July 30, 2007-09-17**

**Funding Requesting Numbers 1442277 & 1442620**  
**Ducor Union Elementary School District**  
**Form 471 Application Number – 523750**  
**Billed Entity Number – 143850**  
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Ducor Elementary School is appealing the recent findings of applications where funds were committed in violation of program rules. A determination by SLD that these funding commitments must be rescinded in full has been reported to us.

During the course of the review it was determined that Ducor School District signed a contract and entered into an agreement with the service provider prior to the expiration of 28-day posting period. Although this information is correct, the district is stating for the record that this error was not done with malice or forethought. It was a simple error of poor office practices on our part. In addition, in 2005/06, this application was signed and processed by a former superintendent and the district was not aware or unable to ascertain if the former superintendent was knowledgeable of the posting period and listing on the USAC web site.

Lastly, in your adjustment letter, is it indicated that the contract in questions was signed on February 7, 2007, which is incorrect. I have a copy of the contract and this contract was signed on February 7, 2006. Please make a note of this error.

We are hopeful that SLD will take into consideration and honor our appeal.

Sincerely,



Jesse Navarro

Superintendent

Email : jnavarro@ducorschool.com



Voice over IP Phones  
Networks  
Hardware Service  
Software Support

January 2, 2007

Jesse Navarro  
Ducor Union Elementary School District  
23761 Avenue 56  
Ducor, CA 93218

Dear Jesse,

I spoke with Kevin Matteson a couple of times today about the review of Form 471 #523750, the Basic Maintenance contract for Funding Year 2006. Kevin suggested that we do some forensic research through our calendars to see if we can shed some light on the timeline of the events of February 2006 that have to do with the bid, awarding of the bid, and the signing of the contract by Dick Schlager that month.

The district's consultant, Emerson Tripoli, provided a complete set of bid specifications and forms for us to fill out with our proposal for the Year 2006 project. I completed the bid paperwork and signed all of the forms on the morning of February 6<sup>th</sup>, 2006, and had one of our staff deliver the bid to the school that day in order to meet the bid deadline (see attached snapshot of Brian's Outlook calendar for 2/6/2006).

As we have discussed, Emerson provided consulting for other school districts in this area – we bid on several of his RFP's and won a few of them that winter. I was attempting to setup a meeting with Emerson to discuss the bid for another district and he agreed to meet with me on February 16<sup>th</sup>, after his meeting at Ducor School with Mr. Schlager to work on the bid acceptance for Ducor School's various E-Rate projects. When he arrived at my office a little after noon, he handed me the Year 2006 contract with Mr. Schlager's signature (see attached snapshot of my Outlook calendar for 2/16/2006).

I remember this meeting very well for two reasons: the agenda for our meeting was to discuss (debate) our proposal for another district which they wanted to accept, but with which we had differing interpretations of the specifications; also, this meeting was at the very end of the E-Rate season for the school to award bids and file the Forms 471 for that year, which was unlike Emerson (but he had already moved out of the county to Paso Robles by that time, which is why he was bunching his meetings when he drove into the area). Another point – if you research Form 471 #523750 online you will see that it was filed on the evening of February 16<sup>th</sup>, after our meeting at my office (and his meeting with Mr. Schlager); again, this is not Emerson's method – he would have filed the Form 471 long before the deadline if Mr. Schlager had signed the contract prior to February 16<sup>th</sup>.

As I mentioned to you and Rick this summer, the contract for this project was signed and then delivered to me on February 16<sup>th</sup>, 2006. I have signed the original contract, the attached Outlook printout, and I will sign any other form that you need to have certified – this is the actual order of events and there has been NO "violation of program rules".

Please call or e-mail me if you need any more information.

Sincerely,

Steve Dillard

**February 13 -**  
**February 19, 2006**

February 2006

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

March 2006

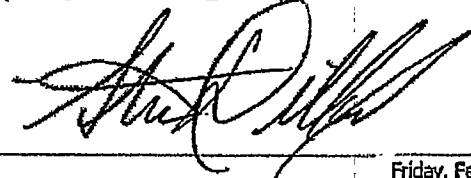
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Monday, February 13

Thursday, February 16

10:30am 12:00pm Cisco webcast - IPC - CM release  
 12:00pm 12:30pm meet w/Emerson

MEETING IN MY OFFICE  
 - RECEIVED THE SIGNED CONTRACT  
 FOR DUCOR SCHOOL.



Tuesday, February 14

Friday, February 17

9:30am 12:00pm Kings River w/Richard Grissom

9:30am 11:30am Woodlake Schools  
 1:00pm 4:00pm Woodlake - Onsite w/Mark

Wednesday, February 15

Saturday, February 18

12:00pm 1:00pm dt  
 1:00pm 2:30pm Dave @ FUSD

9:00am 11:00am EAA Meeting

Sunday, February 19

Dillard, Steve

1

1/2/2008 3:56 PM

# February 06, 2006

## Monday

February 2006  
S M T W T F S  
5 6 7 8 9 10 11  
12 13 14 15 16 17 18  
19 20 21 22 23 24 25  
26 27 28

March 2006  
S M T W T F S  
5 6 7 8 9 10 11  
12 13 14 15 16 17 18  
19 20 21 22 23 24 25  
26 27 28 29 30 31

7 am

8<sup>00</sup>

9<sup>00</sup>

9:55am-10:55am Alpaugh School

10<sup>00</sup>

*Delivered Bid*

11<sup>00</sup>

11:25am-12:25pm Ducor School

*Deliver Bid.*

12<sup>pm</sup>

*Brian Fought*

1<sup>00</sup>

2<sup>00</sup>

3<sup>00</sup>

4<sup>00</sup>

5<sup>00</sup>

6<sup>00</sup>

TaskPad

☒ TaskPad

☒ Call Terri @ Dale Bruder's office about t...

Notes

Brian Fought

# Proposal Form

To: The Board of Trustees  
Ducor Union Elementary School District  
Ducor, California

Boardmembers:

In compliance with the Request for Quote, the undersigned hereby proposes to furnish all required labor, materials, transportation, equipment, services and incidentals necessary to install equipment and cabling in strict conformance with Contract Documents prepared therefore. Proposal shall include all applicable taxes.

BASE QUOTE: Lump Sum quote for work at the District, complete, for the sum of \$ 16,580.59, separated as follows:

E-Rate eligible items and services: \$ 16,580.59

Non E-Rate eligible items and services: \$ 0.00

The Contractor hereby certifies that he/she has carefully checked all the above figures and understands that the Owner will not be responsible for any errors or omissions on the part of the undersigned in making up this quote.

COMPLETION TIME: If the undersigned should be notified of proposal acceptance, within twenty (20) days after Proposal Form date, he agrees to execute the construction Agreement and to begin work within Thirty (30) days after having been given written Notice to Proceed and to complete all work on the project within the schedule established by the District.

CONTRACTOR PAYMENTS: The undersigned agrees that in case all of the work called for under the contract, in all parts and requirements is not finished or completed within the contract time set forth in this Proposal, unless a delay is authorized in writing by the School District, damage will be sustained by the School District. It is further agreed by the undersigned that it is impractical to ascertain and determine the actual damage that the District will sustain in the event of any reason for such delay. The undersigned, therefore, agrees to pay the School District the sum of Five Hundred Dollars (\$500) per calendar day per site that the work remains uncompleted or unaccepted by the District, provided that the total damages assessed against the undersigned shall not exceed twenty-five percent (25%) of the total value of the entire Contract.

The undersigned has thoroughly examined the site and existing conditions where the work is to be constructed, is familiar with the drawings, specifications and other contract documents pertaining thereto and hereby certifies that this Proposal is genuine and not collusive and that the School District will not be responsible for any errors or omissions on the part of the undersigned in preparing this Proposal.

Name of Firm: Sierra Delta Systems, Inc.  
dba Advanced Micro Systems

Type of Firm: Corporation  
(Corporation, Partnership, etc.)

Address: 3320 E. Mineral King Avenue, Suite A  
Visalia, CA 93292

I declare under the penalty of perjury that the firm has a California Contractor License No. N/A with an Expiration Date of \_\_\_\_\_

Executed at: Visalia, CA

Signature: Arthur Dilla - President

Dated this 6th day of February, 2006.

## E-Rate Quote – Network Equipment

Customer: Ducor Union Elementary School District  
 Address: 23761 Avenue 56  
 Ducor, CA 93218  
 Phone Number: (559)534-2261  
 Proj: #DUD0607-01 Internal Connections  
 Maintenance  
 471 Number:  
 FRN Number:  
 Attachment #:

Vendor: Advanced Micro Systems  
 Address: 3320 E. Mineral King Ave., Suite A  
 Visalia, CA 93292  
 Telephone Number: (559)625-8862  
 Vendor SPIN: 143020624  
 Quote #: 60212  
 Date: 2/6/2006

Eligible Items Ttl	Eligible Services Ttl	Ineligible Items Ttl	Ineligible Srvc Ttl	Grand Total
\$ 1,872.59	\$ 14,708.00	\$ 0.00	\$ 0.00	\$ 16,580.59

### E-Rate Eligible Items

Qty	Description	Price Each	Extended Price
<b>NETWORK EQUIPMENT</b>			
1	Cisco SmartNet 8x5xNBD, Cisco 2621 Router	284.00	284.00
1	Cisco SmartNet 8x5xNBD, Catalyst 2950G-48 Switch	207.00	207.00
1	Cisco SmartNet 8x5xNBD, Catalyst 2950G-24 Switch	140.00	140.00
3	Cisco SmartNet 8x5xNBD, Aironet 802.11b WAP	57.00	171.00
1	Cisco SmartNet 8x5xNBD, Aironet 352 Series Workgroup Bridge	57.00	57.00
1	Cisco SmartNet 8x5xNBD, Cisco PIX 501	99.00	99.00
1	Cisco SmartNet 8x5xNBD, Catalyst 3750-24 Enhanced Switch	689.00	689.00
1	Cisco SmartNet 8x5xNBD, Cisco PIX 506E	99.00	99.00
		<b>Subtotal</b>	<b>1,746.00</b>
		<b>Taxes</b>	<b>126.59</b>
		<b>Total</b>	<b>1,872.59</b>

### E-Rate Eligible Services

Qty	Description	Price	Extended Price
50	<b>CABLING SUPPORT</b> Ongoing support for equipment listed in the Statement of Work in the proposal for Project #DUD0607-01 (January 2006). Basic Maintenance to support existing phone, network and video cabling.	82.00	4,100.00



60	<b>NETWORK EQUIPMENT SUPPORT</b> Ongoing support for network equipment listed in the Statement of Work in the proposal for Project #DUD0607-01 (January 2006). Phone, remote and onsite support from Cisco trained personnel to provide Basic Maintenance for routers, switches, and wireless equipment.	88.40	5,304.00
60	<b>SERVER HARDWARE AND SOFTWARE SUPPORT</b> Ongoing support for equipment listed in the Statement of Work in the proposal for Project #DUD0607-01 (January 2006). Phone, remote and onsite support from Microsoft trained personnel to provide Basic Maintenance for existing DNS, DHCP, Web and E-Mail servers.  All labor (Basic Maintenance) is to be performed both onsite and remotely, as needed, with 4-hour response time for critical issues. Support includes regular on-site visits, remote and telephone support, estimated at a minimum of one onsite support call per month.	88.40	5,304.00
		Total	14,708.00

*Non E-Rate Eligible Items*

Qty	Description	Price Each	Extended Price
		Subtotal	0.00
		Taxes	0.00
		Total	0.00

*Non E-Rate Eligible Services*

Qty	Description	Price	Extended Price
			0.00
		Total	0.00

**NONCOLLUSION AFFIDAVIT TO BE EXECUTED BY BIDDER AND  
SUBMITTED WITH BID**

State of California

County of Tulare

)  
) ss  
)

Stephen Dillard, being first duly sworn, deposes and says that he is President of Advanced Micro Systems, the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: 2/6/06

Signature: Stephen Dillard - PRESIDENT

# CONTRACTOR'S CERTIFICATE REGARDING WORKERS' COMPENSATION

## Labor Code Section 3700:

"Every Employer except the State shall secure the payment of compensation in one or more of the following ways:

A. By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.

B. By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees.

C. For all political subdivisions of the State, including each member of a pooling arrangement under a joint exercise of powers agreement (but not the State itself), by securing from the Director of Industrial Relations a certificate of consent to self-insure against workers' compensation claims, which certificate may be given upon furnishing proof satisfactory to the director of ability to administer workers' compensation claims properly, and to pay workers' compensation claims that may become due to its employees. On or before May 31, 1979, a political subdivision of the State which, on December 31 1978, was uninsured for its liability to pay compensation, shall file a properly completed and executed application for a certificate of consent to self-insure against workers' compensation claims. The certificate shall be issued and be subject to the provisions of Section 3702."

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such revisions before commencing the performance of the work of this contract.

Sierra Delta Systems, Inc.

dba Advanced Micro Systems

Proper Name of the Contractor

By: Stephen R. Dill

Signature of Contractor

(In accordance with Article 5 [commencing at Section 1860], Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this contract.)

## Owner Contractor Agreement

This agreement made the 6th day of February, 2006 by and between the Ducor Union Elementary School District of Tulare County, California, a political subdivision of the State of California, acting by and through its Board of Trustees, hereinafter designated as the "Owner", and Advanced Micro Systems, hereinafter designated as the "Contractor".

Witnesseth: That the Owner and Contractor, for the consideration hereinafter named, agree as follows:

Article I: Scope of Work: The Contractor agrees to provide all materials, labor, transportation, equipment, facilities, services and incidentals, and to pay all applicable taxes to provide:

District- and School-wide LAN and Cabling System basic maintenance

Article II. COMMENCEMENT AND COMPLETION: The work to be performed under this Agreement shall be commenced within thirty (30) calendar days after Contractor receives the written Notice To Proceed. The work shall be diligently pursued by the Contractor and completed not later than forty-five (45) calendar days from the date work is begun, excluding days upon which inclement weather does not permit Contractor to continue the work. The actual award of the contract will be contingent upon the actual receipt of the Funding Commitment Decision Letter (FCDL) from the Schools and Libraries. Time is of the essence in this Agreement. Contractor agrees and understands that up to 90% of the project price is provided through eligible E-Rate funding and that eligibility expires on June 30, 2007 should Contractor fail to complete the project.

Article III. CONTRACT PRICE: Contractor agrees to receive and accept the following lump sum amount as full compensation for all work and materials embraced in this Agreement; for all costs, losses, or damages arising from the nature of the work, or the action of the elements, or any unforeseen difficulties or obstructions which may arise or be encountered; and for all risks of every description connected with the work until its acceptance by the Owner, to wit: Sixteen thousand, five hundred eighty and fifty-nine hundredths dollars (\$16,580.59).

Of the aforementioned \$ 16,580.59, District shall pay to Contractor the discounted portion as its direct liability to Contractor. Contractor is responsible to obtain reimbursement of the discounted portion of the Contract price through the Schools and Library Division in a legal and timely manner. In no event shall the District be responsible for reimbursement of this discounted balance to Contractor.

Article IV. WITHHOLDING AND DISBURSEMENT: Pursuant to Public Contract Code § 7107, in the event of a dispute between the Owner and Contractor, the Owner may withhold from the final payment an amount not to exceed 150% of the disputed amount plus any amounts necessary to cover any filed and unreleased stop notices. Except as so withheld, the Owner shall release the retention withheld within sixty (60) days after the date of completion of the work of improvement, as "completion" is defined in Public Contract Code § 7107. In the event that retention payments are not made within the time periods required by Public Contract Code § 7107, the Owner or the Contractor withholding the unpaid amounts shall be subject to the interest provisions of Public Contract Code Section 7107.

Article V. CONTRACTOR: Contractor acknowledges that he is an independent contractor and not an employee, agent or representative of Owner, and in this regard shall supervise and direct the work using Contractor's best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, and procedures and for coordinating all portions of the work under the Contract.

Contractor represents and warrants to Owner that all work will be of good quality, free from faults and defects and in conformance with this Contract, and all work not so conforming to these standards may be considered defective.

Contractor shall pay all sales, consumer, use and other similar taxes required by law and shall secure and pay for all permits, fees and licenses necessary for the execution of the work.

At the completion of the work, Contractor shall remove all waste materials and rubbish in and about the worksite. If the Contractor fails to clean up, the Owner may do so and charge the cost to the Contractor.

Article VI. INDEMNITY: Contractor shall hold harmless, defend and fully indemnify Owner, its officers, agents and employees, from and against any liability, claims, actions, costs, damages or losses, including reasonable costs and attorney's fees, for injury, including death, to any person or damage to any property, arising out of Contractor's performance of the work, or work performed by Contractor's agents or employees, or subcontractors employed for the work, their agents or employees. Such indemnification shall extend to all claims, demands, or liabilities occurring after completion of the work as well as during the progress of the work.

Article VII. LIQUIDATED DAMAGES: Failure to complete the work within the time and in the manner provided for by this Contract shall subject the Contractor to liquidated damages pursuant to Government Code section 53069.85. The parties understand and agree that the actual occurrence of damages and the amount thereof which the Owner would suffer if the work is not completed on time is impossible or is extremely difficult to determine. Accordingly, the parties agree that the sum of \$500.00 per day for each and every calendar day of delay beyond the time herein prescribed for finishing the work shall be presumed to be the amount of damages sustained by the Owner for Contractor's failure to complete the work on time.

In the event the Contract shall become liable for liquidated damages, the Owner, in addition to all other remedies provided by law, shall have the right to withhold any and all retained percentages which would otherwise become due the Contractor until the liability of the Contractor under this section has been finally determined.

In accordance with the provisions of Government Code section 4215, the Contractor shall not be assessed liquidated damages where delay is caused by the failure of the Owner, or the Owner of any utilities, to provide for the removal or relocation of utility facilities.

Article VIII. INSURANCE: Contractor shall secure and maintain the following insurance with the Owner named as an additional insured which will protect the parties from claims that may arise out of or result from Contractor's operations or those of any subcontractor in carrying out the project:

- b. Comprehensive public liability insurance for personal injury or property damage with a combined single limit of not less than \$1,000,000;
- c. Worker's compensation insurance as required by the provisions of labor code section 3700.

Certification that such insurance has been obtained will be required to be presented to Owner on or before the work is started.

Article IX. CORRECTION OF WORK: Contractor guarantees all materials and work for a period of one (1) year and shall correct any work that fails to conform to the requirements of this Contract where such failure to conform appears during the progress of the work, and shall remedy any defects due to faulty materials or workmanship which appear within a period of one (1) year from the date of final completion of the Contract.

Article X. REQUIRED BONDS: Contractor shall furnish to Owner a Performance Bond in an amount of 100% of the Contract Price insuring the faithful performance of the Contract, and a Labor and Materials payment Bond in an amount of 100% of the Contract Price to insure the payment of all obligations arising hereunder. Contractor shall deliver the bonds to Owner before the work is started. All bonds required, whether Bid bonds, Performance, Payment, or other bonds, shall be issued by a California admitted surety insurer.

Article XI. PUPIL SAFETY REQUIREMENTS: The Contractor shall provide one or more of the following methods, pursuant to Education Code § 45125.2, to ensure the safety of the pupils of the Owner:

- (1) The installation of a physical barrier at the work site to limit contact with pupils;
- (2) Continual supervision and monitoring of all employees of the Contractor by an employee of the Contractor whom the Department of Justice has ascertained has not been convicted of a violent or serious felony;
- (3) Surveillance of employees of the Contractor, by school personnel. The Contractor will be charged the cost of this surveillance;
- (4) Provide evidence that each and every employee that will perform work under this contract at a school site has been ascertained by the Department of Justice to not have been convicted by a violent or serious felony to the satisfaction of the school district.

Contractor shall submit a plan to the Owner at least fifteen (15) days prior to the commencement of work describing how Contractor will comply with the foregoing.

Whether to approve or reject the pupil safety plan is within the sole discretion of the School District Governing Board. Owner reserves the right to impose greater or additional safety requirements, including but not limited to, compliance with all of the fingerprinting and related requirements of California Education Code Section 45125.1. The pupil safety plan shall be approved by Owner before any agents or employees of Contractor may enter school grounds where they may have any contact with pupils. Contractor shall indemnify, hold harmless, and defend the Owner against any and all actions, proceedings, penalties or claims arising out of the Contractor's failure to comply with the requirements of this section.

If Contractor believes that its employees will have only limited contact with pupils and should therefore be exempt from the foregoing requirements, Contractor must contact the Owner with its request for exemption at least fifteen (15) days prior to the commencement of work. The request for exemption must specify the grounds for such proposed exemption, considering the totality of circumstances, including but not limited to the length of time Contractor will be on school grounds, whether pupils will be in proximity to the site where the Contractor's employees are working, and whether the Contractor's employees will be working by themselves or with others. To grant or deny the exemption is at the sole discretion of the Owner.

**Article XII. PREVAILING WAGE RATES:** Pursuant to sections 1770-1780 of the Labor Code of the State of California, the Director of the Department of Industrial Relations has determined the general prevailing rate of per diem wages in the locality for each craft or type of worker needed to execute the Contract.

The Contractor to whom the Contract is awarded and any subcontractor under him shall pay all workers employed on the work not less than the rates determined by the Director of the Department of Industrial Relations. Copies of the prevailing rate of per diem wages are on file with the Department of Industrial Relations, Division of Apprenticeship Standards, 445 Golden Gate Avenue, San Francisco, California, and at the principal office of the Owner, and are available to any interested party upon request.

Pursuant to Labor Code section 1776, the Contractor and each subcontractor is required to keep or cause to be kept an accurate record showing the names and occupations of all laborers, workers and mechanics employed by him in connection with the execution of this Contract or any subcontracts, and showing also the actual per diem wage paid to each of such workers, which records shall be open at all reasonable hours to inspection by the Owner, its officers and agents and to representatives of the Division of Labor Standards Enforcement of the State Department of Industrial Relations. The certified payroll records are required to be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division.

**Article XIII. WORKING HOURS:** Contractor acknowledges that he is familiar with the provisions of Labor Code sections 1810-1815 pertaining to working hours, and that he will comply with the requirements provided therein. Pursuant to Labor Code section 1813, the Contractor is required, as a penalty to the state or political subdivision (Owner) on whose behalf the Contract is made or awarded, to forfeit \$25.00 for each worker employed in the execution of the Contract by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of said Labor Code sections.

**Article XIV. EMPLOYMENT OF APPRENTICES:** Contractor agrees to comply with Labor Code sections 1773.3, 1777.5 and 1777.6, and 3077 et seq., each of which is incorporated by reference into this Contract. These sections require that Contractors and subcontractors employ most apprentices and apprenticeship occupations in a ratio of not less than one (1) hour of apprentice's work for every five (5) hours of labor performed by a journeyman, unless an exception is granted, and that Contractors and subcontractors shall not discriminate among otherwise qualified employees as indentured apprentices on any public work solely on the ground of race, religious creed, color, national origin, ancestry, sex, or age. Only apprentices who are training under written apprenticeship agreements will be employed on public works in apprenticeship occupations. The responsibility for compliance with these provisions for all apprenticeship occupations rests with the Contractor.

**Article XV. NON-DISCRIMINATION:** In connection with the performance of work under this Contract, the Contractor agrees (as prescribed in Chapter 6 of Division 3 of Title II of the Government Code of the State of California, commencing at section 12900 and by Labor Code § 1735) not to discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or age. The aforesaid provisions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor

agrees to post hereafter in conspicuous places, available for employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. The Contractor further agrees to insert the foregoing provisions in all subcontracts hereunder, except subcontracts for standard commercial supplies of raw materials.

**Article XVI. IMMIGRATION ACT COMPLIANCE:** The bidder hereby certifies that it is, and at all times during the performance of work hereunder shall be, in full compliance with the provisions of the Federal Immigration Reform and Control Act of 1986 ("IRCA") in the hiring of its employees, and the bidder shall indemnify, hold harmless, and defend the Owner against any and all actions, proceedings, penalties or claims arising out of the bidder's failure to comply strictly with the IRCA.

**Article XVII. EXISTING UTILITIES:** In accordance with the provisions of Government Code section 4215, the Owner shall assume the responsibility for the timely removal, relocation, or protection of existing main or trunkline utility facilities located on the site of the work. If such utilities are not identified by the Owner in the plans and specifications and made a part of the invitation for bids, the Contractor shall be compensated for the costs of locating, repairing damage not due to the failure of the Contractor to exercise reasonable care, and removing or relocating such utility facilities if such are not indicated in the plans and specifications with reasonable accuracy, and for equipment on the project necessarily idled during such work. Nothing herein shall be deemed to require the Owner to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the site of the construction project can be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the site of the construction. If the Contractor, while performing the work, discovers utility facilities not identified by the Owner in the plans or specifications, he shall immediately notify the Owner and utility in writing. The public utility shall have the sole discretion to perform repairs or relocation work or permit the Contractor to do such repairs or relocation work at a reasonable price.

**Article XVIII. LICENSE:** Contractors are required by law to be licensed and regulated by the Contractors' State License Board, which has jurisdiction to investigate complaints against Contractors if a complaint regarding a patent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a Contractor may be referred to the Registrar, Contractor's State License Board, P. O. Box 26000, Sacramento, California 95826.

**Article XIX. BUILDING CODES:** The provisions of all applicable building codes and ordinances shall be considered a minimum requirement. Where the requirements of these Contract Documents exceed those of such codes or ordinances, these Contract Documents shall govern.

**Article XX. OWNERSHIP OF PLANS AND SPECIFICATIONS:** All plans, specifications and estimates for the Work shall be and remain the property of the Owner as required by Education Code Section 39159.

**Article XXI. SUBCONTRACTING:** No subcontracting will be allowed under this agreement without prior written authorization by Owner. Owner reserves the right to reject any subcontractor at its sole discretion.

**Article XXII. DISABLED VETERAN BUSINESS ENTERPRISES:** To the extent required by law, the Contractor shall meet all requirements of law relating to the participation of disabled veteran business enterprise contracting goals, and shall comply with Public Contract Code § 10115 et seq. and all applicable regulations. Contractor further agrees that, when required, Contractor will ensure compliance by all subcontractors and will complete all forms required by the Office of Local Assistance, the State Allocation Board, or other agencies exercising jurisdiction over the project.

**Article XXIII. ANTITRUST; ASSIGNMENT:** In accordance with Section 7103.5(b) of the Public Contract Code, the Contractor and subcontractors shall conform to the following requirements. In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the Contractor or subcontractor offers and agrees to assign to the awarding body all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700 of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the Contractor, without further acknowledgment by the parties.

**Article XXIV. COMPLIANCE WITH LAW:** Contractor shall provide services in accordance with applicable Federal, State, and local laws, regulations and directives.

Article XXV. GOVERNING LAW: This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. The parties agree that this Agreement is made and is to be performed in the County of Tulare, California. Contractor waives the removal provisions of California Code of Civil Procedure Section 394.

Article XXVI. AMENDMENTS: The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement signed by the involved parties.

Article XXVII. CONTINGENCY: The Contract will be contingent upon the District receiving funding commitment letters from the Schools and Library Division (E-Rate), and the School District reserves the right to request modifications to the Scope of Work according to the funding received by the School District, or to cancel this contract whether or not the District receives funding commitment from E-Rate.

Article XXVIII. ENTIRE AGREEMENT: The Contract Documents constitute the entire agreement between the parties and there are no understandings, agreements, representations or warranties, expressed or implied, not specified herein. The Contract Documents shall include all Bidding Documents and Addenda, this Agreement, the Drawings and Maps, the Technical Specifications, written Modifications, if any, and all Attachments hereto. Contractor, by the execution of this Agreement, acknowledges that he has read this Agreement, understands it and agrees to be bound by its terms.

Article XXIX. HEADINGS: Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.

Article XXX. NOTICES: Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

District Contact Information:	Contractor Contact Information
Ducor Union Elementary School District 23761 Avenue 56 Ducor, CA 93218 (559) 534-2261 -Office (559) 534-2271 -Fax	Advanced Micro Systems 3320 E. Mineral King Avenue Suite A Visalia, CA 93292 Phone: (559) 625-8862 Fax: (559) 625-3958

Notice delivered personally or sent by facsimile transmission is deemed to be received upon receipt. Notice sent by first class mail shall be deemed received on the fourth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the first day first hereinabove written.

SCHOOL DISTRICT:	CONTRACTOR:
Name: Richard A. Schlager	Name: Stephen Dillard
Signature: <i>Richard A. Schlager</i>	Signature: <i>Stephen Dillard</i>
Title: Interim Superintendent	Title: President
Contractors License Information:	
Number: N/A	Expiration Date: _____ Classification: _____